

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PHILLIP SENEGAL,
Petitioner,

v.

RON DAVIS,
Respondent.

Case No. [18-cv-03864-EMC](#)

ORDER OF DISMISSAL

Docket No. 9

Phillip Senegal, currently incarcerated at San Quentin State Prison, filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 to challenge his 1990 conviction from Alameda County Superior Court for murder and attempted murder. Respondent has moved to dismiss the petition as a second or successive petition filed without permission. Mr. Senegal has not opposed the motion to dismiss, and the deadline by which to do so has long passed.

The present petition is not Mr. Senegal's first federal habeas petition challenging his 1990 conviction. His first federal habeas petition challenging that conviction was denied on the merits on March 8, 1995 in *Senegal v. White*, N. D. Cal. Case No. C-93-1269 CAL. The United States Court of Appeals for the Ninth Circuit affirmed the district court's decision denying the petition on June 25, 1996 in *Senegal v. White*, Ninth Cir. Case No. 95-15925.

A second or successive petition may not be filed in this court unless the petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. 28 U.S.C. § 2244(b)(3)(A).

Respondent's motion to dismiss due to Mr. Senegal's failure to comply with Section 2244(b)(3)(A) is **GRANTED**. Docket No. 9. Mr. Senegal has not yet obtained an order from the Ninth Circuit permitting the filing of a second or successive petition. This court will not entertain


1 a new petition from Mr. Senegal until he first obtains permission from the Ninth Circuit to file
2 such a petition. This action is **DISMISSED** without prejudice to Mr. Senegal filing a petition in
3 this Court after he obtains the necessary order from the Ninth Circuit.

4 If Mr. Senegal wants to attempt to obtain the necessary order from the Ninth Circuit, he
5 should file an "Application For Leave To File Second Or Successive Petition" in the Ninth Circuit
6 (at 95 Seventh Street, San Francisco, CA 94103). A copy of the form application is enclosed with
7 this order for his convenience.

8 The Clerk shall close the file.

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10 **IT IS SO ORDERED.**

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12 Dated: December 4, 2018

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15 EDWARD M. CHEN
16 United States District Judge
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